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8 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 MICHAEL KANTOR, et al.,

11 Plaintiffs,

12 v.

13 BIGTIP, INC., et al.,

14 Defendants.

CASE NO. C15-1871 MJP

ORDER ON MOTIONS IN LIMINE

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16 The above-entitled Court, having received and reviewed:

- 17 1. Defendants BigTip, Inc., WhoToo Inc., Demandbase, Inc., and Matt Rowlen's Joint
18 Motions in Limine (Dkt. No. 208) and Plaintiffs' Opposition to Defendants' Motions
19 in Limine (Dkt. No. 214);
- 20 2. Plaintiffs' Motions in Limine (Dkt. No. 210) and Defendants BigTip, Inc., WhoToo
21 Inc., Demandbase, Inc., and Matt Rowlen's Joint Response in Opposition to
22 Plaintiffs' Motions in Limine (Dkt. No. 212);

23 all attached declarations and exhibits, and relevant portions of the record, rules as follows:
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1 Plaintiffs' Motions in Limine:

2 A. Issue adverse jury instruction as a sanction for failure to produce email database:

3 DENIED.

4 B. Exclude non-party lay witnesses from courtroom until they have testified: DENIED.

5 C. Exclude evidence about the Plaintiffs' finances and "accredited investor" status:

6 DENIED.

7 D. Exclude evidence about dismissed claims: GRANTED.

8 E. Exclude evidence suggesting SLM was responsible for failure of BigTip: RESERVED

9 FOR TRIAL.

10 F. Exclude evidence about why SLM did not invest more than \$400,000 in BigTip:

11 GRANTED.

12 G. Exclude witnesses disclosed in last two days of discovery, or not at all: RESERVED

13 FOR TRIAL.

14 H. Any ruling excluding testimony of Plaintiffs' expert should be applied to Defendants'

15 expert also: DENIED.

16 Defendants' Motions in Limine:

17 1. Exclude argument that BigTip ran out of money because of BigTip's management:

18 DENIED.

19 2. Exclude testimony and evidence beyond those plead by Plaintiffs: DENIED.

20 3. Exclude testimony of Plaintiffs' expert Ms. Barrick: DENIED.

21 4. Exclude speculative testimony about the disposition of any of BigTip's assets: DENIED.

22 5. Exclude hearsay testimony about the operation, employees, or management of BigTip or

23 WhoToo: DENIED.

- 1 6. Exclude testimony from Elisha Gilboa (SLM) or any other Plaintiff that Rowlen forged
2 or otherwise improperly created or post-dated documents: DENIED.
- 3 7. Exclude any reference to Defendant Rowlen as a crook or a fraud: DENIED.
- 4 8. Exclude testimony/evidence about prior claims against BigTip, WhoToo, or Rowlen that
5 were voluntarily resolved or are pending, including the Shannon employment matter and
6 the Dun & Bradstreet contract dispute: GRANTED.
- 7 9. Exclude any references by Shannon to the web crawler program as “source code”:
8 DENIED.
- 9 10. No argument that Rowlen was motivated by fraud to start WhoToo: DENIED.
- 10 11. Exclude all references to insurance coverage for any entity: RESERVED FOR TRIAL.

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12 The clerk is ordered to provide copies of this order to all counsel.

13 Dated: April 16, 2018.

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15 The Honorable Marsha J. Pechman
16 United States Senior District Court Judge
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